

SUBJECT: Civil Rights Impact Analysis And Environmental Justice

TO: All Rural Development National Office Officials
All Rural Development State Directors

ATTN: All Regional Directors, Program Directors, State Environmental Coordinators and
State Civil Rights Coordinators/Managers

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify the requirements of RD Instruction 2006-P, "Civil Rights Impact Analysis, issued March 1, 1995, and its relationship to Executive Order (E.O.) 12898, "Environmental Justice, issued February 11, 1994.

The guidance given by this AN is limited to grant or loan (direct or guaranteed) approvals. It is not intended to give guidance or to change the requirements concerning civil rights impact analyses for administrative actions such as office closures, budgets, contracting, etc. For guidance concerning those actions, refer to Departmental Regulation 4300-4 and RD Instruction 2006-P.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN 3392 (2006-P) which expired April 30, 1999.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 2006-P, Civil Rights Impact Analysis was issued on March 1, 1995, to implement the requirements of Departmental Regulation 4300-4. State Directors should ensure that Area and Local Office staff are informed of the requirements of this AN which are applicable to their programs.

RD Instruction 2006-P requires that a Civil Rights Impact Analysis be conducted prior to approving and implementing proposed policy actions. Proposed policy actions, as defined by Departmental Regulation 4300-4 and RD Instruction 2006-P, includes a wide range of agency activities, including, but not limited to, the approval of **loans and grants**. Therefore, prior to loan or grant approval, a Civil Rights Impact Analysis must be conducted and it must be documented on Form RD 2006-38.

Expiration Date: November 30, 2000

Filing Instruction:
Preceding RD
Instruction 2006-P

As a separate initiative, President Clinton signed E.O. 12898, *Environmental Justice*, on February 11, 1994. The E.O. requires each Federal agency to make achieving environmental justice part of its mission by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low income populations. This Rural Development AN is consistent with the current Departmental Regulation concerning the implementation of the E.O., issued December 15, 1997.

Until further notice, this is to clarify that compliance with RD Instruction 2006-P will fulfill each Rural Development Agency's obligation under both Departmental Regulation 4300-4 **and** E.O. 12898. The Civil Rights Staff will be issuing a revision to RD Instruction 2006-P, after which all Rural Development Agencies, and all programs administered by those Agencies, will comply. Until the revisions are issued, all agencies must comply with RD Instruction 2006-P to ensure the requirements of Departmental Regulation 4300-4 and E.O. 12898 are met.

ADDITIONAL INFORMATION

As indicated above, when grants and loans (direct or guaranteed) are proposed, a Civil Rights Impact Analysis in regard to environmental justice must be conducted and the analysis documented utilizing Form RD 2006-38. This must be done prior to loan approval, obligation of funds, or other commitment of agency resources, including issuance of a letter of conditions or issuance of a conditional commitment of guarantee, whichever occurs first. Environmental review documents, including Environmental Assessments and Environmental Impact Statements, prepared pursuant to 7 CFR 1940-G and 7 CFR 1794 must include a cross-reference to the Form RD 2006-38.

- (1) locating sewage or water treatment facilities in minority areas;
- (2) constructing apartment complexes for low-income tenants within a 100 or 500 year floodplain, next to railroad tracks, or next to farms that routinely crop dust;
- (3) locating an electric power generation or transmission facility near a minority or low income population, and;
- (4) locating an industrial facility in a part of town where low income or minorities reside.

Agency officials are not, at this time, expected to conduct civil rights impact analyses for individual Single Family Housing loans and/or grants (direct or guaranteed). In addition, an analysis is not required for a servicing action (transfer, assumption, subordination, etc.) unless civil rights concerns in regards to environmental justice have been identified or unless an environmental justice complaint has been made.

In addition to identifying and addressing disproportionately high and adverse human health effects on minority and low-income populations, another objective of the E.O. is to ensure that minority communities and low-income communities have adequate access to public information. This may require that special outreach efforts be used prior to approving loans or grants to reach minority or low-income communities that will be affected by agency actions. Examples of special outreach efforts include, but are not limited to, translating and using alternative language newspapers when public notices are published, consulting with minority leaders within the community, using interpreters at public meetings, and making sure the public meeting is held in a building that is accessible to the disabled.

Whenever environmental justice or civil rights impact concerns are raised, by the public or the Department, the concerns be must included in, and addressed by, the analysis. As needed, consultation must occur with other Agencies or experts in a particular field to address those concerns. Documentation of any consultation, advice that is given, and any mitigating measures that are recommended and/or taken, must be made a part of the record.

The State Director, or official designated to certify on his or her behalf, is the certification official for analyses conducted at the State Office level. For loan and grant approvals, this will normally be the loan processing or servicing official. The State Civil Rights Coordinator/Manager will assist the loan official on an as-needed basis and will provide advice and guidance to the State Director and field staffs. For Electric and Telecommunications Programs, the Assistant Administrator, or official designated to certify on his or her behalf, is the certification official.

Attached is a question and answer sheet that provides answers to many commonly asked questions about the Civil Rights Impact Analysis process. Many of the questions and answers concern loans and grants. Further technical advice and assistance in problem resolution is available through the National Office. Civil rights questions should be referred to Willie A. Williams of the Civil Rights Staff at (202) 692-0096 (Voice), or 692-0107 (TDD). Environmental questions should be referred to Susan Wieferich, on behalf of the Rural Housing Service and the Rural Business-Cooperative Service, (202) 720-9647 or Mark Plank, Rural Utilities Service, (202) 720-1649, as appropriate.

A copy of the E.O. 12898 is attached for your reference.

Signed by James C. Kearney

James C. Kearney
Administrator
Rural Housing Service

Signed by Dayton J. Watkins

Dayton J. Watkins
Administrator
Rural Business-Cooperative Service

Signed by Christopher McLean

Christopher McLean
Acting Administrator
Rural Utilities Service

Attachments

ATTACHMENT NOT AUTOMATED.